

BOISE CASCADE CORPORATION,

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AGBCA No. 2005-127-1

Appellant

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Representing the Appellant:

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ORDER OF THE BOARD OF CONTRACT APPEALS

May 9, 2006

Opinion for the Board by Administrative Judge VERGILIO.

On January 18, 2005, the Board received this appeal filed by Boise Cascade Corporation, of Medford, Oregon (purchaser). The respondent is the U. S. Department of Agriculture (Government). The purchaser of timber from the Forest Service, in the Rogue River National Forest, Oregon, under the Squaw/Elliott Timber Sale contract, No. 075558, disputes the denial by the contracting officer of a claim to a refund of \$65,400. The purchaser maintains that it is entitled to the requested refund of effective purchaser credits earned under the contract and applied to the down payment (replacing the cash deposit that was then refunded to the purchaser). The Government characterizes the requested relief as arising from purchaser credit that could be utilized during the life of the sale, but otherwise as ineffective purchaser credit used to replace the cash deposit. The Government contends that the purchaser is not entitled to cash reimbursement.

The Board has jurisdiction over this timely-filed appeal pursuant to the Contract Disputes Act of 1978 (CDA), 41 U.S.C. §§ 601-613, as amended. The appeal file, complaint, and answer were filed

and served. The parties conducted discovery and were preparing for a hearing on the merits set to commence on June 5, 2006.

By letter dated May 8, 2006, the parties provided a settlement agreement and request for dismissal. The parties have agreed to settle their dispute and resolve all claims, without acknowledging breach or fault by either party, while including all costs, attorney fees and expenses. The Forest Service will make payment of \$5,000 to the successor in interest to this purchaser. The Forest Service will not bring any counterclaim for refund of any amounts of purchaser credits transferred to another sale or used for payment of stumpage during the sale. The parties jointly request dismissal of this case by the Board.

DECISION

In accordance with the request of the parties, this matter is dismissed with prejudice.

JOSEPH A. VERGILIO

Administrative Judge

Issued at Washington, D.C.

May 9, 2006